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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.        | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------------|------------------|
| 10/615,447  | 07/08/2003  | Kent G. West         | COL-101-Div                | 7972             |
| 7590  | 09/26/2005  |                      | EXAMINER                   |                  |
| OLSON & HIERL, LTD.<br>36th Floor<br>20 North Wacker Drive<br>Chicago, IL 60606 |             |                      | NOVOSAD, JENNIFER ELEANORE |                  |
|   |             |                      | ART UNIT                   | PAPER NUMBER     |
|   |             |                      | 3634                       |                  |

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

|                 |                     |              |               |
|-----------------|---------------------|--------------|---------------|
| Application No. | 10/615,447          | Applicant(s) | WEST, KENT G. |
| Examiner        | Jennifer E. Novosad | Art Unit     | 3634          |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 29 July 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 2,3,5-10 and 14-18 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 9,14 and 15 is/are allowed.

6) Claim(s) 2,3,6 and 10 is/are rejected..

7) Claim(s) 5,7,8 and 16-18 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 08 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

### **DETAILED ACTION**

This Office action is in response to the amendment filed July 29, 2005 by which claims 2, 3, 6, 10 and 16 were amended and claim 18 was added.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6, 2, and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,912,139 (Bowman '139).

Bowman '139 discloses a bicycle rack comprising a bracket (28) including a top face (at 28 in Figure 6) and inner and outer faces whereby the bracket is adapted to be fitted on an elongate support frame (26); a brace (including 18 and 12) including a lower brace (12) including a channel which defines an opening coupled to and extending outwardly from the bracket (28) and an upper brace (18) including a channel which defines an opening coupled to and extending upwardly from the bracket (28); the bracket (28) being a rectangularly shaped hollow sleeve slidingly fitted on the support frame (26).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bowman '139, alone.

Bowman '139 discloses the rack as advanced above.

The claims differs from Bowman '139 in requiring a fastener extending through the bracket.

Although Bowman '139 does not show a fastener it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a fastener extending through the bracket of Bowman '139 for increased support and securement of the brace on the support member.

#### *Allowable Subject Matter*

Claims 5, 7, 8, and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 9 and 14-15 are allowed.

*With respect to claim 9*, it is noted that the prior art of record fails to show or suggest the arms having a proximal portion being bent inwardly at an acute angle and a distal portion being bent downwardly at an acute angle (see lines 12-15).

*With respect to claim 14*, it is noted that the prior art fails to show or suggest the lower base being "rotatable" along a horizontal plane (see line 9 and Figure 6 of the instant invention).

***Response to Arguments***

Applicant's arguments filed July 29, 2005 have been fully considered but they are not persuasive. It is noted that applicant's amendment necessitated an additional description of the Bowman reference in the Section 102 rejection advanced above.

With respect to applicant's arguments that "Claim 6 is directed to upper and lower brace member defining openings... Bowman '139 shows channel members, contrary to Applicant's claimed invention", it is noted that the examiner considers channels to define openings, as claimed.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is 571-272-6832. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jennifer E. Novosad  
Primary Examiner  
Art Unit 3634

September 19, 2005